

REMARKS

A. Overview

Claims 1-51 are pending in the present application. This responds to the September 23, 2005 final rejection and is filed in conjunction with the concurrently filed request for continued examination. Reconsideration is respectfully requested.

B. Section 101 Rejection

Claims 1, 4-12, 26-39, 41, 43, and 45-50 stand rejected under § 101. The Examiner continues the rejection that these claims are not statutory as they do not solve what the Examiner calls "technological innovation."

Applicants respectfully assert that this is not the correct legal test for patentability and incorporates the arguments and case authority regarding the same from applicant's prior response. In particular, the J.E.M. case is not limited in its application to plants. Although the Examiner is correct that the particular invention related to plants, the U.S. Supreme Court specifically interpreted the meaning of § 101, in all respects. It discussed and cited the *Diamond v. Chakrabarty* case, which is not a plant case.

The Courts have held that almost anything is patentable if it has a "concrete, useful, and tangible" result. Those Courts have also held that mere abstract ideas are not patentable.

In the present case, it is not a mere abstract idea. The preambles describe an improved way of estimating cost of paintless dent repair of an automobile body. The steps or apparatus limitations define concrete, useful, and tangible things. For example, claim 1 gathers information about body damage, processes it with a program, and generates an estimate. As the

applicant's specification sets forth in detail, this improves over the state of art of counting and measuring individual dents across the whole vehicle.

However, to advance prosecution of this application, method claim 1 has been amended to specifically state the estimation program is computerized. Additionally, specific steps relative to characterization of dents have been added. Therefore, it is respectfully submitted claim 1 is not in any way a mere abstract idea but has specific concrete, useful, and tangible limitations that result in a concrete, useful, and tangible result.

Independent claim 26 has been amended to add specific limitations regarding the openings in the device defined in the claim. Similar limitations have been added to claim 45. These claims also are submitted to have concrete, useful, and tangible results.

It is respectfully submitted that the claims as now constituted are clearly eligible subject matter under § 101.

C. Section 103 Rejections

Claims 1-51 stand rejected as obvious over Reid U.S. Patent 6,219,930. This rejection is respectfully traversed.

To advance prosecution of the present application, an aspect of the present invention is pursued in amended claim 1. It is based on the clear and specific methodology described at numbered paragraphs 22 and 23 at page 9 of applicant's specification, as well numbered paragraph 26 at pages 10 and 11 of applicant's specification. Details of the method, for the exemplary embodiment of the application, are set forth at numbered paragraphs 85-88 at pages 26 and 27 of applicant's specification. In particular, note numbered paragraph 88 at page 27, numbered paragraph 3 under "Easy Count Steps" at Figure 3, and the template at Figure 4, as well as reference numbers 1-12 and 1-14 of Figure 5.

Each independent claim 1, 14, 26, and 45, as amended, specifies that there are two pieces of information utilized to assist in generating the estimation for repair. One is a characterization of the range of sizes of dents on the automobile. This is done with openings 62, 63, 64, and 65 on template 60 at Figure 4. Essentially, the user identifies the smallest and largest dent on the car within that range of sizes. This allows the estimator to characterize the range of sizes susceptible to P.D.R. repair. In other words, smaller dents are not likely repairable by P.D.R. nor are larger dents. However, a better estimate of repair for the entire vehicle surface or vehicle is possible by knowing what the range of sizes of dents might be. Furthermore, each of those independent claims also includes the limitation of identifying a cluster of dents and characterizing the cluster. Referring back to numbered paragraph 88 at page 27 of applicant's specification, the cluster is the "highest concentration of dents within the larger opening 66 of the template of Figure 4." In this aspect of the invention, a better estimation of cost of repair of the whole panel or the whole vehicle is submitted to be possible by locating the highest concentration of dents that fit within that circle 66.

Reid U.S. 6,219,930 has been carefully reviewed. Nowhere is there found any disclosure or teaching of locating the highest concentration of dents on the vehicle panel or the vehicle in its entirety, and using that as a factor arriving at a total repair estimation.

The Examiner cites to Reid Figure 3 and Reid column 3, line 14-16 as meeting this limitation. However, those places in Reid merely disclose counting dents within a "representative area and then sizing dents in that area." There is nothing about searching and identifying for the highest concentration of dents that fit within a predetermined area.

Therefore, it is submitted independent claims 1, 14, 26, and 45 clearly define a combination that is neither taught nor disclosed by Reid. As submitted in applicant's prior

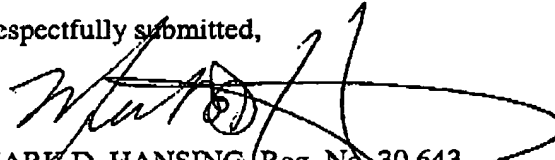
response, Reid teaches away from this by specifically requiring a representative area be selected and then counting dents within that representative area to help determine an estimate for the entire vehicle. Applicant's methodology looks for the highest concentration of dents, not a representative area. This intentional factor has been utilized and set forth in the claims and distinguishes the claims from Reid.

Independent claim 51 sets forth a subscriber base system that includes computers and other limitations nowhere disclosed in Reid. No prima facie case of obviousness is made out by Reid, because there is a complete absence of any teaching of the combination of claim 51. Claim 51 is therefore also allowable.

D. Conclusion

This is a request to extend the period for filing a response in the above-identified application for four months from May 23, 2006 to September 23, 2006. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$795.00 to cover the cost of the four-month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

Respectfully submitted,



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